

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2204 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SAJUBHA RUPSIKH JADEJA

Versus

STATE OF GUJARAT

Appearance:

MR SHALIN MEHTA for MR PM BHATT for Petitioner
None present for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 10/11/2000

ORAL JUDGEMENT

#. In this matter the arguments were heard on 21.9.2000 and matter was posted on 30.10.2000 for dictation of order. Thereafter due to the paucity of time the dictation of the order could not be made in this matter. Today the learned counsel for the petitioner is present.

He was heard further in the matter. The petitioner-an employee of Surendranagar District Panchayat, Surendranagar by way of this petition under Article 226 of the Constitution of India praying for direction to the respondent-authorities to accord the benefit of revised pay scales to the petitioner with effect from 1.11.1956 in the pay scale of Rs.70-80, from 1.10.1961 in the pay scale of Rs.105-145, from 1.6.67 in the pay scale of Rs.125-200 and from 1.1.73 in the pay scale of Rs.260-430 and prayed for all consequential benefits like arrears of the revised salary with effect from 1.11.1956, increments, etc. and also prayed for further benefits of revised pay scales made applicable to the employees of the State of Gujarat in the near future.

#. This parity in the pay scale has been claimed by the petitioner on the ground that for all benefits i.e. pay scale and service conditions, the employees of the Panchayat who are discharging same duties are to be considered par with the employees of the Government. Reliance has been placed in this respect on the decision of the apex court in the case of R.K.Soni's case.

#. I do not find any merits in the claim of the petitioner. On the record I find document Annexure-F page No.43 a statement showing the details of pay scales applicable to the petitioner since 1.8.47 and those given to the petitioner. From this statement I find that the petitioner entered in service of Dhangadhra State way back on 4.8.47. Then he was taken in the Saurashtra State Services from 1.4.48. The Saurashtra State merged into the Bombay State with effect from 1.11.56 and ultimately he was posted in the District Panchayat Services in the State of Gujarat. From this statement I find that the pay scale of the post of Pumpman were same in State of Gujarat and District Panchayat till 31.10.56. From 1.11.56 the pay scale of post of Pumpman in the District Panchayat was of 35-45 whereas in the Government it was Rs.70-80 and this difference was maintained in all subsequent revision of pay scales which have been made on the recommendation of Sarala Pay Commission and Desai Pay Commission. In case what it is contended by the petitioner is taken to be correct he has to challenge, this difference of the pay scale made at the relevant tile i.e. in the year 1956. The cause of action to the petitioner to challenge this alleged disparity in the pay scale accrued to him on 1.11.56 or in the in all eventuality on 25.10.1958 but he has not bothered, cared and challenged the same. This conduct of the petitioner goes to show that he has not felt aggrieved of or he knows that difference of pay scales for the posts in the

State Government and District Panchayat are reasonable and justified. This petition has been filed by the petitioner in the year 1987 just before few months of his retirement. This petition deserves to be dismissed only on the ground that the petitioner cannot be permitted to agitate a claim for which the cause of action was accrued to him in 1950s. Otherwise also after hearing the learned counsel for the petitioner, I am satisfied that the petitioner has no case on merits also. The parity in the pay scale is claimed on the ground that both the Pumpman in the State of Gujarat and District Panchayat are discharging same duties. It is the question of fact and it is not supported and established by cogent and satisfactory evidence or by producing any relevant and material evidence. Mere words will not sufficient to justify the claim of the petitioner made in the petition and it is to be accepted by the court under Article 226 of the Constitution of India. Be that as it may. The petitioner has not given out the duties of the Pumpman in the State of Gujarat and in the District Panchayat. Even if we proceed with the assumptions and presumptions that the duties are same still heavy burden lies on the petitioner to prove discrimination. It is no more res integra that for the same services / post two different pay scales can be prescribed and reference fruitfully may have to the decision of the apex court in the case of Shambabu Verma Vs. Union of India reported in 1994(2) SCC 521. It is not the case of the petitioner that the qualification prescribed for the appointment on the post of Pumpman in the State Government and that of the District Panchayat are same. There are all possibility that the qualification for these posts may be different.

In the result, the Special Civil Application fails and the same is dismissed. Rule is discharged. Interim relief, if any, granted stands vacated. In the facts of the case, no order as to costs.

(S.K.Keshote, J.)

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